IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3344 OF 2007

Dr.Satish V. Kelshikar .. Petitioner.

Versus

The State of Maharashtra & Ors. .. Respondents.

Mr.Ganesh Gole i/b. Mr.Vaibhav Karnik for the petitioner.
Mr.S.A.Khan for respondent No.3.
Ms.V.Mhaispurkar, A.G.P. for respondent Nos.1 and 2.

CORAM : R.M. SAVANT, J.

(VACATION JUDGE)

DATE : 14TH MAY, 2007.

P.C.:

1. Rule. Rule by the consent of the parties made returnable forthwith.

2. Heard.

3. This petition impugns the order dated 20th April, 2007 passed by the Deputy Charity Commissioner, Mumbai Region, Mumbai in Change Report No.DY.CC/3109/2007.

4. The petitioner is the proponent of the said Change Report. It appears that the proceedings are at culmination stage inasmuch as the order is to be passed. The petitioner had made an application which was numbered as Exh.32 for exhibition of certain documents, the list of

which is already on record. The said application has been turned down by the authority on the ground that it is belated as the matter is now kept for orders.

5. I have heard the learned counsel appearing for the petitioner and the learned counsel for the respondents.

6. It is contended on behalf of the petitioner that the documents are of vital importance considering the issue regarding the Change Report filed by the petitioner. He further contends that no prejudice would be caused to the contesting respondent as the list of documents has already been filed long back. On the other hand, it is contended by Mr.Sagir Khan, learned counsel appearing for respondent No.3 that the application made by the petitioner to bring the said documents on record was rejected on the ground that the stage for leading evidence is long over and, therefore, the application as filed was belated.

7. Be that as it may, in my view, looking to the controversy, it would be just and proper to give a final chance to the petitioner to produce such documents which are already on record and which he desires to exhibit. Petition is, therefore, allowed and the order dated 20th April, 2007 passed by the Deputy Charity Commissioner is

set aside by issuing the following directions.

a) Authority would permit the petitioner to take such steps as are necessary to get the documents exhibited.

b) Contesting respondent No.3 would be entitled to take such objections as are permissible in law.

c) Interest of justice requires that the petitioner to pay cost of Rs.3,000/- to the contesting respondent, which is made a condition precedent and the petitioner would have to produce a receipt from the contesting respondent as evidence of such payment, upon which the liberty granted as per clause (a) above would become operational. If the petitioner fails to pay the said cost, the above order would become ineffective and the petition would stand dismissed.

8. The proceedings relating to the Change Report in question to be decided by the Dy.Charity Commissioner, Greater Mumbai expeditiously, and to be disposed of latest by 31st August, 2007.

9. Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

(R.M. SAVANT, J.)